



# IOWA UNDERGROUND STORAGE TANK FUND

Susan E. Voss, Chairperson

Scott M. Scheidel, Administrator

## Board Members:

Michael L. Fitzgerald ❖ Jeff W. Robinson ❖ Cathy A. Rottinghaus ❖ James M. Holcomb  
Jeffrey R. Vonk ❖ Delia A. Meier ❖ Douglas M. Beech

## MINUTES IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND PROGRAM

June 22, 2006

### COMMISSIONER'S CONFERENCE ROOM IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET DES MOINES, IOWA

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 10:01 A.M. A quorum was present. Roll call was taken with the following Board members present:

Cathy Rottinghaus (via telephone)  
Liz Christiansen (for Jeffrey Vonk)  
Stephen Larson (for Michael Fitzgerald)  
Jim Holcomb  
Jeff Robinson

Also present were:

David Steward, Attorney General's Office  
Scott Scheidel, Program Administrator  
Lacey Skalicky, Program Administrator's Office  
James Gastineau, Program Administrator's Office

### APPROVAL OF PRIOR BOARD MINUTES

The minutes from the May 25, 2006 meeting were reviewed. Mr. Holcomb moved to approve the minutes, Ms. Christiansen seconded the motion, and by a vote of 4-0, the minutes were approved.

### CLOSED SESSION

Ms. Voss noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21. Therefore no closed session convened.

### PUBLIC COMMENT

Ms. Voss requested any comments from the public present. There were no comments at this time.

## **BOARD ISSUES**

### **A. 28E Agreement for DNR Funding – FY07**

Mr. Scheidel distributed a carry-in 28E agreement drafted for the fiscal year 2007 funding for the Department of Natural Resources (DNR) UST section. He explained this draft had been reviewed by DNR staff and they had agreed to this final language. He mentioned that two original drafts for this agreement had been distributed previously by electronic mail to the Board members earlier in the week. He stated the final draft was not much different, and the changes were described in an electronic mail message, from David Steward of the Attorney General's Office, which was distributed with the final draft. The agreement between the Board and the DNR included the return of tank management fees paid to the UST Fund Board by the DNR, as directed by statute, back to the DNR to fund the UST Section for fiscal year 2007. He stated the average amount of the UST Fund's share of the tank management fees was approximately \$400,000.

Mr. Scheidel reminded the Board that they entered into a 28E agreement with DNR for funding the UST Section for the 2006 fiscal year. It was stated in the 2006 agreement that "the primary goal was to enable the UST Section of the DNR to operate on a budget equivalent to the UST tank management fees collected by the DNR." Within the agreement the Board had agreed to return tank management fees to the DNR, as well as, provide additional funding to the DNR based on milestones with regard to UST site inspections and third party inspection program rule development. The fourth and final milestone of the FY06 agreement included entering into a new 28E agreement with DNR for FY07 and transferring the UST installers/inspectors licensing program to the DNR.

Mr. Scheidel explained that the new 28E agreement for FY07 included the return of the UST Fund's 77% of tank management fees collected back to the DNR in exchange for new quarterly milestones with regard to the UST licensing program transfer from the Board's responsibility to the DNR's. The agreement stated within the "Purpose" that the Board intended to enter into future funding agreements with the DNR for the amount of tank management fees collected and allocated to the Board in future years.

The milestones within the new agreement included the completion of quarterly meetings between DNR's central office and field office staff to set UST Section priorities for the following quarter. Mr. Scheidel explained that the continued connection between the central office and field offices would emphasize the UST Section's need for field office services, so that the UST Section's priorities will be addressed. The other milestones of the new agreement involved quarterly steps related to the transfer of the UST licensing program to DNR staff. A negotiated addition to the agreement provided for a joint effort on behalf of the Board and the DNR to prepare and present a legislative package to introduce to legislators at the 2007 legislative session. Mr. Scheidel emphasized that the UST licensing program responsibilities would be completely transferred to the DNR, either by statute pursuant to the legislative package presented, or pursuant to a 28E agreement if the legislative package was not passed by the Legislature, by June 30, 2007.



Mr. Scheidel stated that the DNR had expressed interest in creating a multi-year agreement for funding and once the FY07 terms were met and complete, the Board could draft and enter into such a multi-year agreement. He explained that the legislative package to be proposed would involve the transfer of the licensing program responsibilities; however it would not include a statutory DNR retention of 100% tank management fees collected. Mr. Scheidel had previously signed bond documents stating that the Board would continue to receive 77% of tank fees until the debt service was paid out, therefore the transfer of the Board's 77% back to the DNR would be provided within an extendable 28E agreement.

Lastly, Mr. Scheidel explained that an incentive payment discussed at last month's meeting was included in the FY07 agreement. He described the incentive payment as an additional \$100,000 to the DNR, if their site closure goals set by the U.S. Environmental Protection Agency (USEPA) were exceeded by 25%. He reviewed an electronic mail message forwarded to the Board members from Elaine Douskey of the UST/LUST Section regarding the historical USEPA goals set in past years.

Mr. Larson referenced the financing section of the agreement which stated the funds would be used exclusively for the operation of the DNR's UST Section, and he inquired if that money could be used for bonuses for staff. Ms. Christiansen stated the DNR had no plans to use the money for bonuses, but rather for actual operation costs, and Mr. Scheidel explained that discussions with DNR staff had led him to believe the UST Section potentially would use the funds to finance a new employee for their staff.

Mr. Larson moved to approve the 28E agreement between the Board and the DNR, as drafted and presented. Mr. Holcomb seconded the motion, which was approved by a vote of 3-0. Ms. Christiansen abstained from the vote.

## **B. DNR Update**

Elaine Douskey, supervisor of the LUST/UST section of the DNR, discussed the recent UST Fund Administrator's Conference held in Oklahoma City, OK in June. She stated that she was able to attend several beneficial sessions regarding timely and important issues affecting the Department. Ms. Voss inquired how Iowa's Department stacked up compared to other states. Mr. Scheidel interjected that his discussions, with a federal official for the aboveground/underground storage tank (AUST) department, regarding third party inspections revealed that the Iowa DNR was right on track in terms of what the Feds want to be included, if third party inspections are to be allowed under the Energy Act. He emphasized that he felt confident that the Iowa DNR was well prepared for the upcoming requirements resulting from the federal Energy Act. He specifically referenced fuel delivery prohibition, installer certification, installer insurance requirements, and operator training as future federal requirements to be met, most of which had been in place in Iowa for years.

Ms. Douskey agreed stating she was aware that many other states were panicked over the Energy Act requirements, however the federal implementation guidelines were allowing for some flexibility with regard to the legislative enactment of statutory language, although the actual deadlines for implementation were fixed. And Mr. Scheidel also pointed out that the Energy Act



did create a disincentive for State governments to revert money away from State designated funds, as Iowa had had more money diverted from its UST Fund than any other State with a similar program.

Ms. Douskey went on to thank the Board for their action last month to extend the 28E agreement, which allowed for temporary, full-time staff to review reports for the LUST Section through September 30, 2006. She stated the temporary staff had allowed regular LUST staff to focus on their processes and the elimination of inefficient steps to streamline their processes. She expected the report review rate to drop off significantly at the end of their employment of the temporary staff, as the DNR had received Board funded staff assistance for report reviews for the past 10 years, and a big adjustment would be required to fill the void.

Ms. Douskey stated that the DNR planned to reconvene with stakeholders in meetings to develop the implementation of the ideas formed in previous meetings. In addition, she stated that corrective action meetings continued and 293 memoranda of understanding had been signed, which represented almost 1/3 of the high risk sites classified by the DNR. Ms. Douskey also explained that the DNR was providing additional information to the public regarding the UST Fund on their website, and she had included the UST Board meeting agenda and minutes from the previous month's meeting on the DNR's UST web page.

Lastly, Ms. Douskey commented on the incentive payment included in the approved FY07 28E agreement for DNR funding, stating that the DNR's ability to close more and more sites each year was a difficult hurdle due to the fact that the majority of easy-to-close sites were behind them now, and the remaining sites would require difficult and lengthy remediation efforts. In addition, the DNR could only issue as many no further action (NFA) certificates as are requested. However, she appreciated the opportunity to strive to reach the ambitious number.

### **PROGRAM BILLINGS**

Mr. Scheidel presented the current monthly billings to the Board for approval.

1. Aon Risk Services .....\$ 112,830.33  
Consulting Services – July 2006 (\$62,750.00)  
Claims Processing Services – July 2006 (\$50,080.33)
2. Attorney General's Office .....\$8,554.50  
Services provided for Underground Storage Tank Program  
May 2006 billing

No additional billings for outside cost recovery counsel were presented by the Attorney General's office for this meeting. On a motion by Ms. Christiansen and a second by Mr. Holcomb, the billings were approved by a vote of 4-0.

### **MONTHLY ACTIVITY REPORT**

Mr. Scheidel presented to the Board the May activity report, financials and opt-in report that were included in the Board packet for their review.

## **ATTORNEY GENERAL'S REPORT**

Mr. Steward stated that he had nothing to report to the Board at this time.

## **CLAIM AUTHORITY**

Mr. Gastineau presented the following claim authority requests:

### **1. Site Registration 8606563 – Casey's Marketing Co., Grinnell**

This site was classified high risk for the groundwater vapor, soil leaching to groundwater vapor, and soil vapor pathways for one residential sewer and two residential basements. Soil gas sampling had failed. One more attempt at clearing by soil gas would be made, though it would likely fail. It was agreed that corrective action would go forward with Biox or an excavation if the soil gas did fail. Previous authority to \$75,000 had been granted, of which \$66,456.62 was expended to date. Additional authority to \$185,000 was requested for a site monitoring report (SMR), a corrective action design report (CADR), and implementation of the CADR.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 4-0.

### **2. Site Registration 8608817 – Geil's Oil Company, Donnellson**

This was a second Board report for this site. An excavation at this site had succeeded in reducing the concentrations in groundwater by greater than 95%. The site, however, remained high risk for nine drinking water wells, some of which may no longer exist. Two drinking water wells were known to exist within close proximity to the actual plume, and as a result, the DNR was requiring corrective action rather than high risk monitoring. Public water was available in the area and all residents were hooked up, however none of the private well owners were willing to plug their wells. Previous authority to \$350,000 had been granted, of which \$313,516.62 was expended to date. Additional authority to \$600,000 was requested for a SMR and implementation of an in-situ oxygen curtain (ISOC) treatment.

Mr. Scheidel suggested that Mr. Gastineau inquire if pr-paid water bills would entice the residents to plug their water wells. Ms. Voss inquired if the wells still would be considered non-drinking water wells, since the residents were hooked up to public water. Mr. Gastineau explained that some groundwater professionals were hesitant to reclassify a well from drinking to non-drinking. Darren Binning of Seneca Environmental Services informed the Board that the reclassification of a water well required cooperation and approval from the DNR, and some project managers had different qualifications for a well reclassification than others. Keith Wilkin of the DNR additionally stated that reclassification of water wells on these particular properties would be problematic due to the fact that city residents had expressed they did not like the taste of the public water, and the water wells were still connected to the houses themselves, making the probability of residents drinking from their wells very high.



Ms. Christiansen stated that she had asked Tim Hall from DNR to work with the Water Supply Bureau Chief Chuck Corell and with the DNR counsel Ed Tormey to determine more definitively what the DNR's authority was with regard to the closure of private water wells. She suggested the topic be added to the Annual Strategic Planning Session agenda, and she would request that one or all of the DNR bureau chiefs involved attend to voice the DNR's position.

Next, Ms. Christiansen submitted a motion to approve the claim authority for the Donnellson site, and Mr. Larson seconded the motion. Approved 4-0.

### **3. Site Registration 8601879 – Buckner-U-Save, Greenfield**

This site was classified high risk for soil and gas vapor pathways. A post RBCA conference resulted in an agreement to excavate. Additional plume definition indicated that roughly 4,000 yards of soil needed to be removed. Some polishing after the excavation may be necessary. Previous authority to \$75,000 had been granted, of which \$60,251.51 was expended to date. Additional authority to \$350,000 was requested for a SMR, a possible CADR, and possible implementation of an excavation.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 4-0.

### **4. Site Registration 8601502 – City of Coralville, Coralville**

This site was high risk for groundwater vapor to enclosed space for one residential basement receptor. The site was also low risk for the groundwater vapor to potential enclosed space pathways. Because the groundwater plume was not stable, vapor sampling could not be used to clear the basement receptor. The installation of an ISOC well was agreed upon to reduce the groundwater concentration below the site specific target level's (SSTL's). Previous authority to \$75,000 had been granted, of which \$60,919.90 was expended to date. Additional authority to \$115,000 was requested for a SMR and implementation of remediation.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Ms. Rottinghaus. Approved 4-0.

### **5. CRPCA 0111-26 Council Bluffs**

This State lead project was contracted to address a commingled plume involving four LUST sites. Following additional work, the project had classified one site to no action required (NAR) and two sites to low risk. The fourth site remained high risk.

For the high risk site, the DNR had approved a corrective action plan for a soil vapor extraction system in 2002. The system had been operating since May 2003, and while progress had been made in reducing free product and contaminant levels, continued operation would be necessary to achieve the goals for site closure. The low risk sites required continued site monitoring activities. Additionally, a new release of contamination had been identified at one of the low risk sites. A claim had been established with the site owner's insurance company in regard to the

new release, and a determination of what corrective action shall be required had not yet been made.

Additional funding authorization up to \$500,000 was requested to allow for continued operation of the system enhancement, together with continued operation and maintenance and monitoring of the sites. Motion to approve the additional project authorization to \$500,000 was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 4-0.

**6. Site Registration 8606340 – Home Oil Station/J.D. Carpenter Co, Wapello**

This site was classified as high risk for four drinking water wells, one non-drinking water well, three residential basements and four residential sewers. Soil vapor sampling had failed, and the installation of an air sparge/soil vapor extraction (AS/SVE) system was recommended. After the system has operated for a couple of years, a Tier 3 may still be necessary for the ingestion pathways. The site was also low risk for the protected groundwater source pathway and potential enclosed space pathways. Previous authority to \$75,000 had been granted, of which \$79,775.07 was expended to date. Additional authority to \$365,000 was requested for a site monitoring report (SMR), a corrective action design report (CADR) and implementation of the CADR.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 4-0.

**CONTRACTS ENTERED INTO SINCE THE MAY 25, 2006 BOARD MEETING**

The Board had not entered into any contracts or agreements since the May 25, 2006 meeting.

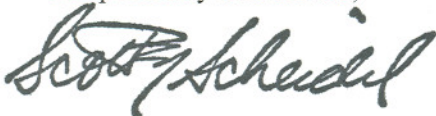
**OTHER ISSUES**

Ms. Skalicky confirmed that the Annual Strategic Planning Session was scheduled for August 24, 2006 at the I-80 Truckstop in Walcott, Iowa. Also, there was no meeting of the Board scheduled for July. Mr. Larson stated that he would have to leave the August meeting early between 2 and 3 P.M.

**CORRESPONDENCE AND ATTACHMENTS**

Ms. Voss asked if there was any further business, and there being none, Mr. Holcomb moved to adjourn, and Ms. Rottinghaus seconded the motion. By a vote of 4-0, the Board adjourned at 10:46 A.M.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott M. Scheidel". The signature is stylized with a large, looped 'S' and a cursive 'M'.

Scott M. Scheidel  
Administrator